IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

MONDAY, THE THIRTIETH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE J.CHELAMESWAR

And
THE HON'BLE MR JUSTICE GODA RAGHURAM

WRIT APPEAL NO : 818 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 05/12/2003 in WP NO :9461 OF 1992 on the file of the High Court.)

Between:

The Depot Manager, APSRTC, Tirupathi-II Depot, Chittoor District.

..... APPELLANT

AND

1 Sri V.V.Subba Rao,
Siripuram Colony, KT.Road, Tirupathi.
2 Labour Court, Ananthapur rep.by its Presiding Officer.

.....RESPONDENTS

Counsel for the Appellant: MR.P.VINAYAKA SWAMY

Counsel for the Respondent No.1: MR. V. Viswanadham

Counsel for the Respondent No.2: G.P. for Labour

The Court made the following:

(ORAL ORDER: PER THE HON'BLE Mr. JUSTICE GODA RAGHURAM)

This appeal is directed against the judgment dated 05-12-2003 in W.P.No. 9461 of 1992 of a learned single Judge of this court dismissing the writ petition. The writ petition was filed by the appellant-Corporation against the order of the Industrial Tribunal-cum-Labour Court, Ananthapur dated 16-07-1991 in M.P.No. 10 of 1990, an application preferred by the 1st respondent herein – workman – under Section 33-C (2) of the Industrial Disputes Act, 1947 (for short 'the Act') seeking determination and payment of the amounts towards encashment of earned leave.

The 1st respondent was a Conductor in the service of the appellant-Corporation and retired as such on 30-11-1989. As his leave encashment benefits were not extended to him, he approached the Labour Court under Section 33-C (2) of the Act. The dispute urged by the 1st respondent in the application under Section 33-C (2) of the Act was in respect of the period 24-12-1976 to 11-07-1977 during which period he was forced to go on medical leave on account of his defective eye sight. In respect of the said period, he had claimed salary by filing I.D.No. 198 of 1987, alleging that he was illegally forced to go on leave. An award was passed in the industrial dispute declaring that the 1st respondent is entitled to full salary for the said period. In respect of the same period, as a part of his terminal benefits were denied, i.e., the leave encashment benefits, M.P.No. 10 of 1990 came to be filed.

The learned single Judge of this court noticed that before the Labour court in M.P.No. 10 of 1990, the appellant-Corporation did not place any material in rebuttal of the claim of the 1st respondent. In the circumstances, the order dated 16-07-1991 was passed by the Labour Court in M.P.No. 10 of 1990 directing the appellant-Corporation to pay the respondent herein a sum of Rs. 15,549-60 Paise towards leave encashment benefits. In view of the fact that an award was already passed in I.D.No. 198 of 1987 declaring that the respondent-workman is entitled to treat the period as 'on duty with full salary', he was also entitled to the leave encashment benefits. This is what the learned Single Judge concluded in dismissing the writ petition, a conclusion which suffers from no infirmity warranting interference in appeal. The writ appeal is, accordingly, dismissed. No costs.

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J. CHELAMESWAR, J

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GODA RAGHURAM, J

Dt. 30-08-2004

Pvks/*

To

1.The Presiding Officer, Labour Court, Ananthapur.

2.2 CD copies

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